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FISCAL IMPACT REPORT

ORIGINAL DATE 1/26/08

SPONSOR Cote LAST UPDATED _____ HB 343

SHORT TITLE Bio-Diesel Weight Distance Exemption SB _____

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
(\$0.4)	(\$2.2)	(\$2.3)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Department of Transportation (DOT)

Energy Minerals and Natural Resources (EMNRD)

SUMMARY

Synopsis of Bill

House Bill 343 exempts 25 percent of the weight-distance and trip taxes on transporters hauling biodiesel fuel to a location in New Mexico. The effective date is July 1, 2008.

FISCAL IMPLICATIONS

DOT has provided a fiscal analysis:

In FY 2009, revenue impacts from this bill are approximately minus \$2.2 thousand to the State Road Fund. FY 2010 revenue impacts from this bill are approximately minus \$2.3 thousand. The FY 2008 impact results from the July 1, 2008 effective date of the bill, making the tax reductions apply to the July 2008 distribution of May 2008 tax receipts, and to the August 2008 distribution of June 2008 tax receipts. Weight Distance tax is accrued on a 60-day basis (two months prior to the cash transfer to a fund), while the Trip

Tax is accrued on a 30-day basis. However, the decrease in Trip Tax revenue is assumed to be zero.

For the purposes of this analysis, it is assumed that approximately 8 million gallons of biodiesel will be transported to a location in New Mexico in FY 2009, which will grow at 5% per year. A new biodiesel production plant has been scheduled to open in Clovis in late calendar year 2008; however, this analysis does not take into account the possible 75 million gallon increase in gallons produced by this plant. It is furthermore assumed that qualifying trips will average 200 miles per trip.

SIGNIFICANT ISSUES

EMNRD:

In the 2007 a Biodiesel Standards Act (Act) was passed by the New Mexico State Legislature and signed into law by Governor Richardson. The Act provided that after July 1, 2010 and before July 1, 2012, all diesel fuel sold to state agencies, political subdivisions of the state and public schools for use in motor vehicles on the streets and highways shall contain five percent biodiesel (B5). After July 1, 2012, all diesel fuel sold to consumers for use in motor vehicles on the streets and highways shall contain five percent biodiesel. The Act also includes “triggers” suspending the requirement if B5 exceeds a certain price or availability of B5 is limited. In addition, two Biofuels Infrastructure Tax Incentives were enacted in 2007 including 1) an income tax credit on blended biodiesel fuels, and 2) gross receipts tax and compensating tax deduction for installing biodiesel blending infrastructure. No tax incentive was provided for distributors of biodiesel. HB 343 provides a tax incentive for distributors.

PERFORMANCE IMPLICATIONS

DOT questions whether modifying a user tax like the weight distance or trip tax is the best way to encourage the biodiesel industry. User taxes tend to be much more directly related to the costs the user imposes. Commercial carriers hauling biodiesel do the same damage to the roads as an equivalent hauler.

TECHNICAL ISSUES

DOT notes that the language does not set a certain amount of biodiesel or a certain percentage. The agency is concerned that a load that includes 99 percent of regular diesel and 1 percent of biodiesel would qualify for the lower rate.

DOT also points out that the reduced rate only applies to deliveries in New Mexico but not of biodiesel fuel that originates in New Mexico and is exported. DFA concurs pointing out that if the lower rate is designed to be an incentive to biodiesel producers such as the Clovis plant than the language should allow for transport *from* a biodiesel production facility.

NF/nt